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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,990	04/01/2002	Tilwin Lepsius	H 3947 PCT/US	2582

423 7590 10/06/2004

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EXAMINER

MUSSER, BARBARA J

ART UNIT PAPER NUMBER

1733

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/018,990

Applicant(s)

LEPSIUS ET AL.

Examiner

Barbara J. Musser

Art Unit

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/7/04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 10-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not disclose any detachments means other than leaders that are suggested might be part of the invention. A "means" as claimed is intended to be a physical structure which performs a given task, but the only detaching means in the specification related to the article is a leader. While the specification discloses using fingernails and screwdrivers to remove the tape, the specification indicates these a devices the invention is intended to replace. The specification does not disclose any alternatives to leaders which are not already other claimed portions of the invention, and the means should not be a portion of the device already claimed since the additional recitation of "means" suggests an additional component not already described.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 10-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 10, 17, and 22, it is unclear what is encompassed by "without a leader". It is unclear if this means that connecting elements must cover the entirety of one side of the adhesive tape or simply that a portion of the tape which is intended to be a pull tab cannot be present.

Regarding claim 10, it is unclear what is meant by "detachment means" as there is no detachment step nor does the specification disclose any detachment means other than a leader which could be considered to be part of the invention.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 10, 11, 15-17, and 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamerski et al.(U.S. Patent 6,120,867) in view of Bries et al.(U.S. Publication 2002/0009568A1).

Hamerski et al. discloses a device for attaching an object to a surface such as a picture to a wall wherein one side of a folded strip having pressure sensitive adhesive on the outside is attached to an object. The other side of the folded strip, which also

has pressure sensitive adhesive thereon, is adhered to the wall.(Col. 3, ll. 27-35, Abstract) The folded strip can be bonded to itself on the inside to prevent movement on the two items relative to one another.(Col. 7, ll. 48-50) The reference discloses that the material which bonds the strip to itself is a releasable adhesive but fails to teach connecting elements such that the elements on one side of the folded strip interlock with the elements on the other side of the folded strip. Bries et al. discloses a device for applying a picture to a wall wherein the exterior surface have a pressure sensitive adhesive thereon and the interior surfaces are connected together either by adhesive or by connecting elements such that the elements on one piece interlock with the elements on the other piece.(Paragraphs [0008], [0034]) It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the interior adhesive of Hamerski et al. which holds the folded portions together with connecting elements such that the elements on one side of the folded strip interlock with the elements on the other side of the folded strip since this would allow the device to be reused more easily(paragraph [0006]) and since Bries et al. indicates adhesives and connecting elements such as Velcro are well-known alternatives in the art and that each has different properties that would make it particularly suitable for certain tasks.(paragraphs [0008], [0034])

Hamerski et al. discloses using a leader as does Bries et al. However, Bries et al. indicates that a leader is not required as it suggests a leader is "preferable".[0032] It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the adhesive tape of Hamerski et al. and Bries et al. without a leader

since Bries et al. discloses a leader is optional, and since removal of the leader would not destroy the references.[0032]

Regarding claims 11 and 18, Bries et al. discloses the connecting members can be hook and loop fasteners.(paragraph [0041])

Regarding claims 15, 16, 20, and 21, the strip of Hamerski et al. is evenly divided into two sections(Figure 1), and Bries et al. shows that each section has one type of fastener.(Figure 6)

7. Claims 12-14, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamerski et al. and Bries et al. as applied to claims 11 and 17 above, and further in view of Cejka et al.(U.S. Patent 6,106,922)

The reference cited above do not specifically disclose any of the fasteners being mushroom shaped though Bries et al. does disclose any known reusable connector can be used.(paragraph [0034]) Cejka et al. discloses mushroom shaped fasteners which can interlock with themselves or with hoops.(Col. 16, ll. 11-14) It would have been obvious to one of ordinary skill in the art at the time the invention was made to use either the mushroom fasteners of Cejka et al. by themselves or in combination with loops since Bries et al. discloses any reusable fasteners can be used and since Cejka et al. discloses these fasteners are a common type of mechanical fastener.(Col. 1, ll. 15-18)

Response to Arguments

8. Applicant's arguments filed 6/30/04 have been fully considered but they are not persuasive.

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9. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Bries et al. discloses that connecting elements are more easily reused than tape[0006] and that connecting elements and adhesives are well-known alternatives in the art.[0008],[0034].

Regarding applicant's argument that modifying Hamerski et al. with Bries et al. would not make a tape which could be reused more easily, Hamerski et al. discloses using an adhesive layer between the folded sections while Bries et al. discloses that conventional tape adhesives break when detached and thus must be replaced. This suggests that the adhesive between the folded sections of Hamerski et al. will degrade with use and that using a material which will not need to be replaced. It is noted that applicant has not argued that connecting fasteners and adhesive are well-known alternatives in the art, and thus it is considered that applicant agrees these are well-known alternatives in the art.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barbara J. Musser whose telephone number is (571) 272-1222. The examiner can normally be reached on Monday-Thursday; alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (571)-272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.


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